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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,538	01/08/2004	Larry Taylor	29953-175016	5153
26694	7590	01/24/2006	EXAMINER	
VENABLE LLP			WEAVER, SUE A	
P.O. BOX 34385			ART UNIT	
WASHINGTON, DC 20045-9998			PAPER NUMBER	
			3727	
DATE MAILED: 01/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

E

Office Action Summary

Application No.

10/752,538

Applicant(s)

TAYLOR ET AL.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
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1. The drawings were received on 11/7/05. These drawings are accepted.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duke '115 in view of Luch et al '866.

Applicants have amended the claims to define the undulations as on the top surface of the flange and extending radially outward from the upper sidewall.

However such construction is well known in the use with tamper evident caps. Note for example members 18 of Duke which extend up from the top surface of the flange 16 and extend radially outward from the sidewall as shown in Figure 2. Since the container of Duke is a bottle it is also considered to have the well-known bottle construction of sidewall, shoulder and bottom. To have further formed the undulation structure in a plastic container for example and as a triangular configuration with linear sides would have been obvious in view of such teaching by Luch et al at 51. Note that neither of the formations extends as far as the periphery of the flange but resides on the top surface. The number of undulations is considered to be a matter of choice dependent in part on the container material and size.

3. Claims 19-23 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 10 above, and further in view of Robinson EP '823, of record.

To have optionally formed the container sidewall with planar portions connected by rounded corner portions with insets so that the container might be efficiently stored would have been obvious in view of the teaching by Robinson in Figure 19.

4. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 10 above, and further in view of Czesak, of record.

To have merely provided the container with well-known upper and lower bumpers for receiving a label would have been obvious in view of Czesak at 32.

5. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments, see page 11 of the amendment, filed 11/7/05, with respect to the objection to the drawings and 112 rejection have been fully considered and are persuasive. The objection and 112 rejection of the claims have been withdrawn.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents show other containers with projections.

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday=Friday from 6 to 4:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SUE A. WEAVER
PRIMARY EXAMINER
GROUP 3200**

SW